

Order

Michigan Supreme Court
Lansing, Michigan

March 8, 2016

Robert P. Young, Jr.,
Chief Justice

152142 & (15)

Stephen J. Markman
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

JEFFERY ANDREW ATWOOD,
Defendant-Appellant.

SC: 152142
COA: 326912
Muskegon CC: 11-060476-FC;
11-060478-FH

On order of the Court, the application for leave to appeal the July 7, 2015 order of the Court of Appeals is considered and, pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we REMAND this case to the Muskegon Circuit Court for the appointment of substitute appellate counsel, in light of *Halbert v Michigan*, 545 US 605; 125 S Ct 2582; 162 L Ed 2d 552 (2005). Based on our review of the record, after the circuit court granted original appointed appellate counsel's motion to withdraw, it erred in failing to appoint substitute appellate counsel when the defendant's original appellate counsel did not accompany his motion to withdraw with legal analysis "referring to anything in the record that might arguably support the appeal," and the trial court failed to make a finding whether the "case is wholly frivolous." *Anders v California*, 386 US 738, 744; 87 S Ct 1396, 1400; 18 L Ed 2d 493 (1967); see also MCR 7.211(C)(5) and AO 2004-6, Standard 5. On remand, substitute appellate counsel, once appointed, may file an application for leave to appeal in the Court of Appeals, and/or any appropriate postconviction motions in the circuit court, within six months of the date of the circuit court's order appointing counsel. The motion to reissue judgment and appoint counsel is DENIED as moot.

We do not retain jurisdiction.



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I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

March 8, 2016

Clerk